

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re: : Chapter 11  
: Case No. 01-01139-JKF  
W.R. Grace & Co., *et al.*, : Jointly Administered  
Debtors. : Related Docket No. 20212

**RESPONSE AND OBJECTION OF MMWR FIRMS TO INSURERS' MOTION  
FOR ENTRY OF CONFIDENTIALITY ORDER**

The MMWR Firms<sup>1</sup> hereby respond and object to the Motion for Entry of Confidentiality Order filed by certain of the Debtors' liability insurers<sup>2</sup> (Docket No. 20212) (the "Insurers" "Motion"). In support, the MMWR Firms state:

1. The MMWR Firms are protected by several Confidentiality Orders previously entered in this Bankruptcy Case (the "Confidentiality Orders").<sup>3</sup>

2. The Confidentiality Orders govern certain information, including information protected by the work product doctrine, that the MMWR Firms have provided to the Debtors (the "Information") expressly in reliance upon such Confidentiality Orders. The MMWR Firms strongly opposed the discovery sought by the Debtors, and the Confidentiality Orders were entered by the Court after significant litigation and negotiation. Pursuant to the Confidentiality

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<sup>1</sup> For the purposes of this Response, the "MMWR Firms" are defined as follows: (i) Kazan, McClain, Abrams, Fernandez, Lyons, Farrise & Greenwood, A Professional Law Corporation; (ii) Waters & Krauss, LLP; (iii) Paul and Hanley (iv) Early Ludwick & Sweeney; (v) Harowitz & Tigerman; (vi) the Wartnick Law Firm; and (vii) Early & Strauss.

<sup>2</sup> The Insurers are Arrowood Indemnity Company f/k/a Royal Indemnity Company, Federal Insurance Company, Maryland Casualty Company, Zurich Insurance Company, Zurich International Ltd., Government Employees Insurance Co., and Columbia Insurance Company f/k/a Republic Insurance Company.

<sup>3</sup> The Confidentiality Orders are docketed at numbers 14149, 16259, and 16918.

Orders, the MMWR Firms provided the Information on the strict condition that the Debtors were to use the Information solely for purposes of estimation and on the basis that the Confidentiality Orders restricted access to the Information to a limited and specifically identified list of parties in this case.

3. The Insurers were not among the listed parties identified in the Confidentiality Orders and the MMWR Firms object to disclosure of such Information to the Insurers. The Insurers do not seek the Information in connection with estimation, and indeed, appear not to even seek the Information in connection with confirmation.

4. In addition, the Confidentiality Orders restricted use of the Information to this case. Certain of the Information may reflect on matters beyond this case. The Information may be relevant to other matters in which the Insurers are involved, and it is highly doubtful that the Insurers are in the position of the Debtors and other parties in this case to which access has been granted to comply with a restriction that the Information be used solely for this case.

5. The MMWR Firms incorporate and join in the Objections of the Law Firms represented by Stutzman, Bromberg, Esserman & Plifka, PC.

6. The MMWR Firms first received notice of the December 10<sup>th</sup> noon deadline for the filing of this Objection today after 9:00 a.m. Accordingly, the MMWR Firms file this Response and Objection to notify the Court and the parties of their opposition to the Insurers' Motion. The MMWR Firms reserve the right to raise additional arguments in advance of or at the time of the hearing.

Dated: December 10, 2008

MONTGOMERY, MCCRACKEN, WALKER & RHOADS, LLP

By: /s/ Richard G. Placey

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